



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 22, 2017

BY ECF

The Honorable Gregory H. Woods
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: United States v. Benjamin Chow,
17 Cr. 667 (GHW)**

Dear Judge Woods:

At the pretrial conference on February 9, 2018, the Court inquired whether the Government intended to advocate that the elements of securities fraud under Title 18, United States Code, Section 1348 were different from those under Title 15. The Government indicated that, at that time, it did not anticipate making such an argument, but it allowed that its position could change during the course of preparing the requests to charge in this matter. The Court indicated that this was acceptable.

The Government now writes to inform the Court that, after reviewing further authorities and consulting with appellate counsel, the Government does anticipate proposing a charge with respect to the Section 1348 offense (Count Fourteen), that differs with respect to certain elements from the Title 15 charge. The Government's proposed instructions will be embodied in the parties' joint requests to charge, which are scheduled to be submitted to the Court, along with briefing on points of disagreement, on March 5, 2018. But in light of the prior colloquy, we wished to provide the Court prompt notice of the Government's change in position.¹

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: /s/
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cc: *Counsel for Defendant* (by ECF)

¹ At the February 9 conference, the Court also inquired whether the Government anticipated arguing that the trades relevant to the Title 18 charge were different from those relevant to the Title 15 charges. The Government's position that the relevant trades are the same under either set of statutes remains unchanged.